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BY ECF

Honorable Richard J. Sullivan
United States Appeals Court
Second Circuit
40 Foley Square, Room 2104
New York, NY 10007

Re: Hayden v. The City of New York, et al. 17-CV-1894-RJS

Dear Judge Sullivan:

I represent defendants the City of New York and Police Officers Abdalla and Kotowski in this matter. I write to request that the May 10, 2021 trial date be moved – to February, March, or early April, or after June. As the Court is aware, after the December 1, 2020 trial date was adjourned at the recommendation of the Court’s epidemiologist, the Court proposed eight alternative trial dates: December 14, February 16, 2021, February 22, 2021, March 18, 2021, March 22, 2021, April 5, 2021, April 12, 2021, and April 19, 2021. We (defendants and defense counsel) advised the Court we were available on six of these eight proposed dates.¹ Plaintiffs’ counsel were not available any of them. The Court then set the trial for May 10, 2020. That date is problematic for me.

The one and only other trial that I currently have scheduled for 2021 is set for May 17, 2021 in the matter of *J-Quan Johnson v. City of New York, et al.*, 15-CV-6915 (SDNY, J. Ramos).² Accordingly, I respectfully request that the trial date in this matter be changed. I understand that plaintiff’s counsel have no availability until August. While defendants have no

¹ Only the weeks of April 12 and April 19 posed conflicts.

² My anticipated trial partner in this case, Joshua Lax, has a trial scheduled for May 3, 2020 in the matter of *Kareem Bellamy v. City of N.Y., et al.*, 12-CV-1025 (EDNY, J. Donnelly), which is anticipated to span at least two weeks.

objection to waiting until August to try this case, to the extent the Court does not wish to wait, we request that the Court move the trial in this matter either to one of the prior dates suggested by the Court (whether or not all three of plaintiff's counsel can accommodate such date), or that the trial be moved to June or July.^{3,4} While it would certainly be ideal for the trial date to be convenient for all three of plaintiff's attorneys, presumably this case could be tried by any one of plaintiff's attorneys. I also note that each of plaintiff's attorneys are new to this case: Ms. Cohen and Mx. Green filed notices of appearance in May, more than a year after the Court issued its summary judgment decision; Mr. Rankin filed a notice of appearance not even a month ago. (Likewise, my own colleague, Mr. Lax, has yet to file a notice of appearance.) By contrast, I have represented the defendants in this case since its inception in 2017, and I have been poised to try this case since it was first scheduled for trial on July 29, 2019. Accordingly, I would respectfully submit that the trial date in this case should be one that allows me to participate. I therefore request a change in the trial date as set forth above.

Thank you.

Respectfully submitted,

/s/ *Flissa Fudim*
Elissa Fudim
Senior Counsel

CC: Remy Green

³ I have a personal conflict the last week of July and first week of August.

⁴ Alternatively, I am amenable to the *Johnson* trial being moved if Your Honor were inclined to discuss the same with Judge Ramos.